HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1365 (SS) OF 2001

(Old No. 27571 of 1994)

1. Anish Khan, S/o Budhu Kha,
2. Tej Pal Singh, S/o Dhayn Singh,
3. Beg Ram Singh, S/o Kishori Singh,
4. Satendra Kumar, S/o Sundar Lal,
5. Rewa Dutt Rekhare, S/o Hari Krishna Rekhari,
6. Raj Pal Singh S/o Girdhari Lal,
7. Hardyal Singh, S/o Desh Raj,
8. Pramod Kumar, S/o Bachan Singh,

All are seasonal Collection Amin and working in Tehsil-Bajpur, District-Nainital.

9. Krishan Singh Khanayat, S/o Ram Singh,
10. Ramesh Singh, Khanayat, S/o Amar Singh,
11. Om Prakash Singh, S/o Rub Chand,
12. Mohan Chand Joshi, S/o Purshottam Joshi,
13 Ramesh Kumar, S/o Lala Ram,
14. Kishan Singh Khati, S/o Bhagat Singh Khati,
15. Basant Ballabh Tiwari, S/o Damodar Tiwari,
16. Harnam Singh, S/o Ghashi Ram,

All are Seasonal Collection Peon and at present working Tehsil-Bajpur, District Nainital. .....Petitioners.

Versus

1. State of U.P., through its Secretary, Department of Revenue, U.P. Civil Secretariat, Lucknow.
2. Board of Revenue, U.P., Lucknow, through its Secretary.
3. The Collector, Nainital.

4. Additional District Magistrate (Revenue and Finance), Nainital.
5. Sub Divisional Magistrate, Bajpur, Nainital.
6. Tehsildar, Tehsil-Bajpur, District-Nainital.

.....Respondents.

Dated:30.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri N.S. Negi, Advocate for the petitioner and Standing Counsel for the respondents.

2. By the present writ petition, the petitioners have prayed for a writ of certiorari quashing the Radio Gram dated 27.01.1994 (Annexure No. 12 to the writ petition) passed by the respondent no.3. The order was passed to the following effect:-

> ^^d`i;k vius v/khuLFk rglhynkj@is'kdkj dks lwfpr djsa fd ftu lhtuy laxzg vehuksa@pijkfl;ksa@l0ok0ok0ua0 dh fu;qfDr dh Lohd`fr 31 tuojh] 1994 rd gSA muds 31 tuojh dks fglkc djkdj jlhn cqdsa okil ys yh tk;A ¼mUgsa½ mUgha lhtuy vehuksa dks 2 Qjojh 1994 dks dk;Z esa ys ysa o jlhn cqdsa iqu% olwyh gsrq tkjh djsa] rFkk mudh fu;qfDr olwyh Bhd jgus ij 31-3-94 rd cuk;h j[kh tk;^^

At the time of filling of the petition, no stay order was granted.

3. In paragraph 3 of the writ petition, it has been stated that they are seasonal collection amins attached with them. They have ceased to work in the year, 1994, as they are only seasonal collection amins, they have no right at present for regularization.

4. In ***Secretary State of Karnataka Vs. Uma Devi 2006(4) SCC Page 1***, it has been filed that no right of regularization is available to the temporary employees. Since the petitioners are seasonal amins, they have no right of regularization.

5. The petitioners have preferred the judgment dated 08.01.2004 passed in Civil Misc. Writ Petition No. 9 of 2004 Mangal Singh Vs. State of Uttaranchal & others, where U.P. Collection Amins Service Rule, 1974, has been considered and a reference has been made to the Writ Petition No. 3320 (ss) of 2001 to the following effect:-

> *"By means of the present writ petition under Articl3e 226 of the Constitution, the petitioner ha sprayed or issue of a writ of mandamus command the opposite parties to appoint the petitioner as regular Collection Amin under 35% quota to be filled from amongst the Seasonal Collection Amins who have worked for more than four faslis and whose recovery is 70% of fixed target.*
>
> *Learned counsel for the petitioner submits that the petitioner is seasonal collection A in and in view of the circular issued by Board of Revenue he collected 70% of the demand which were submitted to him therefore, he wads entitled to be considered in view of the*

explanation appended to Rules, 1974 and as amended in the year, 1992.

If this fact is correct and the petitioner is eligible according to Rule, the opposite parties are directed to consider the case of the petitioner for appointment as regular collection Amin under 35% quota to be filled within a period of one month from the date of production of a certified copy of this order. The petitioner shall be allowed to continue till his case for appointed as regular collection Amin is considered and if work and post if work and post is available and in case the Commissioner has given sanction for appointment of the Seasonal Collection Amins.

Writ the above directions, the writ petition is disposed of finally."

6. A direction has been given in the aforesaid judgment to the Government for creating certain posts in the shape of the regular Collection Peons since the petitioner is not working as Seasonal Collection Peons at present and he has ceased to work from 27.01.1993 and therefore, no direction can be given.

7. However, liberty, is given to the petitioners to approach to the District Magistrate/Collector, Nainital for absorbing in accordance with U.P. Collection Amins Service Rules, 1974, who shall consider the case of the petitioners in accordance with the relevant government rules relating to the Collection Peons.

7. Subject to aforesaid observations, I do not find any illegality in the order. The writ petition lacks merit and is dismissed. No order as to costs.

(Rajesh Tandon, J.)

30.08.2006
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